MONTANA LEGISLATIVE HISTORY

Chapter 316 19 93

Bill H _____ S 157 Original bill & history ✓ C

H. Committee on Local Gov		S. Committee on Local Gov	
Hearing Date(s) 3-16	✓ C	Hearing Date(s) 1-28	✓ C
3-23	✓ C	2-11	✓ C
3-25	✓ C	_____	___ C
_____	___ C	_____	___ C
Date Out _____	___ C		

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

	RETURNED TO SENATE WITH AMENDMENTS		
4/03	2ND READING AMENDMENTS CONCURRED	46	1
4/05	3RD READING AMENDMENTS CONCURRED	50	0
4/07	SIGNED BY PRESIDENT		
4/07	SIGNED BY SPEAKER		
4/13	TRANSMITTED TO GOVERNOR		
4/16	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 365		
	EFFECTIVE DATE: 10/01/93		

SB 154 INTRODUCED BY RYE, ET AL.

PROHIBIT USE OF SURPLUS CAMPAIGN CONTRIBUTIONS FOR PERSONAL EXPENSES

1/14	INTRODUCED		
1/14	REFERRED TO STATE ADMINISTRATION		
1/14	FIRST READING		
1/21	HEARING		
1/28	TABLED IN COMMITTEE		
2/18	COMMITTEE REPORT—BILL NOT PASSED		
2/18	ADVERSE COMMITTEE REPORT ADOPTED	34	13
2/18	RECONSIDERED ADOPTION OF ADVERSE COMMITTEE REPORT	37	11
2/19	2ND READING DO PASS MOTION FAILED	25	25
2/19	2ND READING INDEFINITELY POSTPONED	28	22

SB 155 INTRODUCED BY JACOBSON, ET AL.

PROVIDE CREDIT CARD APPLICATION OR SOLICITATION DISCLOSURE REQUIREMENTS

1/14	INTRODUCED		
1/14	REFERRED TO BUSINESS & INDUSTRY		
1/14	FIRST READING		
1/21	HEARING		
1/21	TABLED IN COMMITTEE		

SB 156 INTRODUCED BY JERGESON

PERMIT LOCAL GOVERNMENTS TO REGULATE DANGEROUS AND POTENTIALLY DANGEROUS DOGS

1/14	INTRODUCED		
1/14	REFERRED TO LOCAL GOVERNMENT		
1/14	FIRST READING		
1/28	HEARING		
2/11	TABLED IN COMMITTEE		

SB 157 INTRODUCED BY JERGESON

ALLOW COUNTY TO ASSIGN IN-CITY PROPERTY TO CITY AFTER COUNTY RECEIVES IT VIA TAX SALE

1/14	INTRODUCED		
1/14	FISCAL NOTE REQUESTED		
1/14	REFERRED TO LOCAL GOVERNMENT		
1/14	FIRST READING		
1/16	FISCAL NOTE RECEIVED		
1/20	FISCAL NOTE PRINTED		
1/28	HEARING		
2/12	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/13	2ND READING PASSED	50	0
2/15	3RD READING PASSED	49	0

	TRANSMITTED TO HOUSE		
2/23	REFERRED TO LOCAL GOVERNMENT		
2/23	FIRST READING		
3/16	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED		
3/26	PLACED ON CONSENT CALENDAR		
3/30	3RD READING CONCURRED	96	4
	RETURNED TO SENATE		
4/03	SIGNED BY PRESIDENT		
4/06	SIGNED BY SPEAKER		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 316		
	EFFECTIVE DATE: 10/01/93		

SB 158 INTRODUCED BY REA, ET AL.

PROHIBIT THE PURCHASE OR USE BY STATE GOVERNMENT OF CEMENT THAT CONTAINS HAZARDOUS WASTE OR CEMENT THAT IS PRODUCED THROUGH A PROCESS THAT BURNS HAZARDOUS WASTE

1/15	INTRODUCED		
1/15	REFERRED TO NATURAL RESOURCES		
1/15	FISCAL NOTE REQUESTED		
1/15	FIRST READING		
1/20	FISCAL NOTE RECEIVED		
1/21	FISCAL NOTE PRINTED		
1/25	HEARING		
2/10	TABLED IN COMMITTEE		

SB 159 INTRODUCED BY BARTLETT

REVISE TAX DEED PROCESS

1/15	INTRODUCED		
1/15	REFERRED TO TAXATION		
1/15	FISCAL NOTE REQUESTED		
1/15	FIRST READING		
1/19	FISCAL NOTE RECEIVED		
1/20	FISCAL NOTE PRINTED		
1/26	HEARING		
1/26	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/27	2ND READING PASSED	47	0
1/28	3RD READING PASSED	45	0
	TRANSMITTED TO HOUSE		
1/29	FIRST READING		
1/30	REFERRED TO LOCAL GOVERNMENT		
3/04	HEARING		
3/05	COMMITTEE REPORT—BILL CONCURRED		
3/05	PLACED ON CONSENT CALENDAR		
3/08	3RD READING CONCURRED	97	1
	RETURNED TO SENATE		
3/13	SIGNED BY PRESIDENT		
3/15	SIGNED BY SPEAKER		
3/16	TRANSMITTED TO GOVERNOR		
3/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 97		
	EFFECTIVE DATE: 10/01/93		

LC 0711/01

Senate BILL NO. 157

INTRODUCED BY Jergeson

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT A MUNICIPALITY PAY DELINQUENT TAXES AND COSTS ON PROPERTY LOCATED WITHIN THE MUNICIPALITY IN ORDER TO HAVE THE COUNTY ASSIGN THE PROPERTY TO THE MUNICIPALITY AFTER THE COUNTY HAS RECEIVED THE PROPERTY PURSUANT TO A TAX SALE; AND AMENDING SECTIONS 15-17-214, 15-17-317, 15-17-318, AND 15-17-323, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-17-214, MCA, is amended to read:

"15-17-214. County as purchaser -- assignment. (1) If no person pays the delinquent taxes, including penalties, interest, and costs, on the first day of the tax sale, the county is considered to be the purchaser.

(2) (a) After the 21st day following the first day of the tax sale, the county treasurer shall identify and list all property that was sold at the tax sale. He The treasurer shall also record that the county is the purchaser of all property remaining unsold and upon which the taxes remain delinquent.

(b) The record of the property in which the county is listed as the purchaser may be made by the treasurer by a separate tax sale certificate of each property or by reference to the property as recorded in the list required under 15-16-301.

(3) A property tax lien of the county in any property acquired by the county under subsection (1) must be assigned by the county treasurer to a municipality, as provided in 15-17-323, or to any person upon the that person's payment of all delinquent taxes, including penalties, interest, and costs specified in 15-17-323."

Section 2. Section 15-17-317, MCA, is amended to read:

"15-17-317. Municipality as purchaser receiver of property. Whenever property that is located within a municipality has been struck off to the county at a tax sale under 15-17-214, is subject to the lien of delinquent special assessments, and has not been assigned under 15-17-214 or 15-17-323, at the request of the municipality, the county treasurer shall assign all of the rights of the county acquired therein at the sale to the municipality upon ~~payment of any delinquent taxes (excluding assessments) and costs, without penalty or interest~~. The duplicate certificate of ~~sale~~ assignment must be delivered to the treasurer of the municipality and filed by ~~him~~ the municipal treasurer in ~~his~~ the municipal treasurer's office. ~~No~~ A charge may not be made for the duplicate certificate when the municipality is the ~~purchaser~~ assignee, and in ~~such~~ that

case, the county treasurer shall make an entry "~~sold~~ assigned to the municipality" on the assessment book opposite the tax~~,--and--he--must--be--credited--with---the delinquent--amount--thereof-in-the-settlement~~. Property ~~sold~~ assigned to the municipality must be held in trust by the municipality for the improvement fund into which the delinquent special assessments are payable."

Section 3. Section 15-17-318, MCA, is amended to read:

"**15-17-318. Assignment of municipality's interest.** (1) At any time after a parcel of land has been acquired by a municipality, as provided in 15-17-317, and has not been redeemed, the treasurer of the municipality shall assign all the rights of the municipality in the property to any person who pays:

(a) ~~the--purchase-price-paid-by-the-municipality~~ to the county any delinquent taxes and costs, including interest;

(b) the delinquent assessments;

(c) interest on the ~~purchase--price--and~~ delinquent assessments at the rate of 5/6 of 1% a month; and

(d) penalties and costs as provided by law.

(2) The treasurer of the municipality shall execute to ~~such~~ the person a certificate of sale for the parcel, which may be in substantially the form provided in 15-17-212 for the assignment of the interests of the county. If the certificate of sale becomes lost or accidentally destroyed

by the assignee, the treasurer of the municipality shall issue a duplicate certificate to the assignee after the assignee delivers to the treasurer evidence satisfactory to ~~him~~ the treasurer, including an affidavit of the assignee, that the certificate has been lost or destroyed.

(3) An assignment by a municipality under this section discharges the trust created under 15-17-317. The municipality may also discharge the trust created under 15-17-317 by paying into the improvement fund the amount of the delinquent assessments and interest accrued ~~thereon~~ on the assessments."

Section 4. Section 15-17-323, MCA, is amended to read:

"**15-17-323. Assignment of rights -- form.** (1) Any tax sale certificate or other official record in which the county is listed as the purchaser must be assigned by the county treasurer to any person who pays to the county the amount of the delinquent taxes, including penalties, interest, and costs, accruing from the date of delinquency or to a municipality as provided in 15-17-317.

(2) The assignment made under subsection (1) must be in the form of an assignment certificate in substantially the following form:

I, ..., the treasurer of ..... County, state of Montana, hereby certify that a tax sale for tax year 19.., in the county of ....., was held on .....

(date), for the purpose of liquidating delinquent assessments, and I further certify that a property tax lien for delinquent taxes in the following property ..... (insert property description) was offered for sale and that there was no purchaser of the property tax lien. Accordingly, the county was listed as the purchaser as required by 15-17-214, MCA. As of the date of this certificate, the delinquency, including penalties, interest, and costs amounting to $....., has not been liquidated by the person to whom the property was assessed, nor has the delinquency been otherwise redeemed.

There having been no liquidation of the delinquency or other redemption, I hereby assign all rights, title, and interest of the county of ....., state of Montana, acquired in ~~such~~ the property by virtue of the sale to ..... (name and address of assignee) to proceed to obtain a tax deed to the property or receive payment in case of redemption as provided by law.

Witness my hand and official seal of office this ..... day of ....., 19...

..... County Treasurer

..... County

(3) An assignment made by a purchaser other than the county, by an assignee of the county, or by a previous assignee may be made for any consideration ~~whatsoever~~. An

assignment ~~so--made~~ is legal and binding only upon filing with the county treasurer a statement that the purchaser's or other assignee's interest in the property has been assigned. The statement must contain:

(a) the name and address of the new assignee;

(b) the name and address of the original purchaser of the tax sale certificate;

(c) the name and address of each previous assignee, if any;

(d) a description of the property upon which the property tax lien was issued~~,--which-description-must-contain~~ that contains the same information as contained in the tax sale certificate or assignment certificate, as appropriate;

(e) the signature of the party, ~~be-it~~ whether purchaser or assignee, making the assignment;

(f) the signature of the new assignee; and

(g) the date on which the statement was signed.

(4) If the certificate described in subsection (1) or the statement described in subsection (3) is lost or destroyed, the county treasurer shall, upon adequate proof and signed affidavit by the assignee that loss or destruction has occurred, issue a duplicate certificate to the assignee.

(5) The provisions of this section apply to any sale of land for which a treasurer's deed was not issued on or

before March 5, 1917, or for which a tax deed was not issued on or before April 23, 1987, and the holder of any certificate described in subsection (1) has the same rights, powers, and privileges with regard to securing a deed as any purchaser of land at a tax sale may now have."

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0157 , as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
An act eliminating the requirement that a municipality pay delinquent taxes and costs on property located within the municipality in order to have the county assign the property to the municipality after the county has received the property pursuant to a tax sale.

FISCAL IMPACT: None.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
Minimal local impact. The bill allows municipalities to take an assignment on certain city properties (those having delinquent special assessments) without first paying delinquent taxes. Intent appears to be to give municipalities the ability to resell tax assignments or subsequently tax deeded property at a price which is reflective of current real estate market conditions.

Only a few cities currently take assignments on their own property from the county. Those that do take such assignments do so on a selective basis.

The bill would result in the deferred receipt of all or prorated portion of taxes receivable by the state, counties, school districts, and special taxing jurisdictions. However, the amounts involved would be small. No fiscal impact to municipalities, since under current law they merely receive back from the county their share of taxes paid on assignment.

David Lewis 1-19-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Greg Jergeson 1/20/93
GREG JERGESON, PRIMARY SPONSOR DATE

Fiscal Note for SB0157, as introduced

SB 157

SENATE BILLS STATUS SHEET

page #3

LOCAL GOVERNMENT COMMITTEE

BILL NUMBER	ENTERED COMMITTEE	CONSIDERED	OUT OF COMMITTEE	DP DO PASS	DNP DO NOT PASS	DPAA DO PASS AS AMENDED	DNPAA DO NOT PASS AS AMENDED
SB 156	1-14-93	1-28-93					
		2-2-93					
		2-11-93	2-11-93 (tabled)				
SB 157	1-14-93	1-28-93					
		2-2-93	not in minutes				
		2-9-93					
		2-11-93	2-11-93			✓	
SB 189	1-19-93	1-26-93					
		2-2-93					
		2-9-93	2-9-93			✓	
SB 215	1-20-93	2-4-93					
		2-9-93	2-9-93			✓	

F02

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Senator Kennedy, on January 28, 1993, at 1:00 p.m.

ROLL CALL

Members Present:

Sen. Ed Kennedy, Chair (D)
Sen. Sue Bartlett, Vice Chair (D)
Sen. Dorothy Eck (D)
Sen. Delwyn Gage (R)
Sen. John Hertel (R)
Sen. David Rye (R)
Sen. Bernie Swift (R)
Sen. Eleanor Vaughn (D)
Sen. Mignon Waterman (D)
Sen. Jeff Weldon (D)

Members Excused: Sen. Ethel Harding

Members Absent: None.

Staff Present: Connie Erickson, Legislative Council
Rosalyn Cooperman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 156, SB 157, SB 230
Executive Action: SB 103

HEARING ON SB 230

Opening Statement by Sponsor:

Senator Delwyn Gage, Senate District 5, stated SB 230 has been presented in past sessions but has not received much support. He said SB 230 would make all local elections non-partisan like judicial races. Senator Gage said it does not matter to local folks whether their sheriff is a Democrat or Republican or their Clerk is a Democrat or Republican. He noted there are people in some counties who run under a certain party, regardless of their political affiliation, in order to get elected. Senator Gage added there currently exists an option for local county residents

Senator Gage replied any non-partisan individual could be the replacement.

Closing by Sponsor:

Senator Gage stated the majority of Montanans are not aware they could hold non-partisan local elections, however they would support the idea overwhelmingly. He said it is unfortunate for qualified people to be passed up for local government positions simply because of their party affiliation.

HEARING ON SB 157

Opening Statement by Sponsor:

Senator Greg Jergeson, Senate District 8, stated SB 157 would provide equal treatment of cities and counties with regard to the acquisition of tax deed property. He said under current law, cities are required to pay delinquent taxes on properties assigned to them by counties, however, the delinquent tax provision does not apply to property acquired by counties. Senator Jergeson concluded SB 157 was drafted at the request of the Mayor of Chinook.

Proponents' Testimony:

Mr. Alec Hansen, Montana League of Cities and Towns, stated his organization unanimously passed a resolution to endorse SB 157 at their annual meeting. He said current law exempts counties from paying delinquent taxes on acquired property but does not exempt cities from paying delinquent taxes on property assigned to them. Mr. Hansen stated current law imposes a financial impediment to the acquisition of property by cities and believes cities and counties should be treated equally in this respect. He agreed with the fiscal note which states the financial impact of SB 157 would be negligible, and added representatives of Montana's larger cities agree with this statement. Mr. Hansen stated the majority of cities frequently take assignment of tax deed properties. He said there are instances when cities would be interested in acquiring some of these properties and transferring them to the local housing authority to increase the amount of available low-income housing.

Opponents' Testimony:

Mr. Stan Hughes, Gallatin County Treasurer and President, Montana County Treasurers Association, stated SB 157 would not equalize the treatment of tax-deed property assigned to the city. He added there are technical problems with SB 157 which violate the

rinciple that the debt follows the lien. It was his opinion the elinquent taxes and the lien are one and the same. Mr. Hughes aid SB 157 would separate the lien from the delinquent taxes. Ir. Hughes then gave an example of what, in his opinion, would appen under SB 157. He said the county has a tax lien sale in uly and the city can then come in and request an assignment on ny properties with delinquent assessments. He added, at that oint, the lien would go to the city while the delinquent taxes ould stay with the county. Mr. Hughes said the lien and the axes, which are one and the same, are now owned by separate ntities. He said this situation creates many problems for the ounty. Mr. Hughes said once the city takes the assignment, the ity has the option of going through the tax deed process and notifying the interested parties which would now include the county because the county still has the delinquent taxes. He said the county's ability to collect on its own debt, which was formerly the lien, is essentially wiped out. Mr. Hughes anticipates under SB 157, every city in every county would automatically request the liens be transferred to them on any properties with delinquent taxes. He said SB 157 does not specify how the city would request the liens be turned over. Mr. Hughes said the city has several options once it takes the assignment on properties. First, the city could do nothing. Second, the city could pursue the tax deed procedure. He stated the county would be at a disadvantage regardless of the city's course of action. Mr. Hughes said current law permits the county to notify any entity which takes assignment and does not pursue the tax deed procedure that they have a maximum period of 120 days in which to act or the lien will be cancelled. He said under SB 157, the lien is cancelled but the delinquent taxes remain on the county's books. Mr. Hughes said there is no possible way for the county to ever collect the delinquent taxes since the lien has been cancelled, so all the districts within the county do not receive the money owed to them. In the event the city does pursue the tax deed procedure, Mr. Hughes said, 15-17-319 provides for the distribution of proceeds. He said there is no provision in this existing statute to pay the county for the delinquent taxes still sitting on the books. Mr. Hughes also said SB 157 may be in conflict with 15-17-319. He stated the cities currently have the mechanism in place to protect themselves on their delinquent assessments. Mr. Hughes concluded existing statutes provide that cities receive their pro-rated share of money derived from the sale of tax deed land if the proceeds are less than the total of assessments and taxes due. He urged the Committee not to pass SB 157 in its existing form.

Mr. Cort Harrington, Montana County Treasurers Association, stated his Association opposes SB 157. He said under existing statutes, the municipality pays the county to take assignment on tax deed property. Mr. Harrington said SB 157 would allow municipalities to take an assignment and sell the property without having to pay the county first.

Mr. Morris stated MACo would work with anyone to resolve SB 157. He believed there was another bill yet to be introduced which would allow counties to turn over property to the city for the specific purpose of using it for low-income housing. He suggested the Committee delay executive action on SB 157 and wait for the other bill. Mr. Morris said it was his understanding the true purpose of SB 157 is to put the city, as a taxing entity, in the position of being able to take tax deeds without paying the delinquent taxes.

Senator Swift asked Mr. Hughes if the county was required to pay cities its share of revenue generated from the payment of delinquent taxes on properties. Mr. Hughes replied 7-8-2306 mandates the counties pay cities a pro-rated share on delinquent taxes. Mr. Hughes stated his Association would also work with proponents and opponents of SB 157 to resolve this problem.

Senator Bartlett asked Ms. Saisbury if the city received from the county a portion of the proceeds from the sale of the Placer Center. Ms. Saisbury replied no and stated, based on county attorney's opinion, the city has the option of picking up an assignment before tax deed is issued. She said if the city does not elect to do so, they may lose their right to the proceeds. Senator Bartlett asked Mr. Harrington if he knew of any similar situations in existence, to which Mr. Harrington replied he believed this situation was unique.

Senator Kennedy submitted to the Committee written testimony he had received from the Missoula County Treasurer. (Exhibit #3)

Closing by Sponsor:

Senator Jergeson stated in sponsoring SB 157, he has identified a problem with existing tax deed law. Senator Jergeson said he had no particular pride in authorship of SB 157 and stated he would be welcome to any suggestions for its improvement.

HEARING ON SB 156

Opening Statement by Sponsor:

Senator Greg Jergeson, Senate District 8, stated SB 156 was drafted in response to an incident in Chinook where a child was seriously injured by a neighbor's pitbull dog. He said while the child ended up in the hospital, nothing was done about the dog or its owner. Senator Jergeson said the father of the child eventually shot the pit bull and was promptly arrested and thrown in jail for malicious destruction of property. Senator Jergeson stated he sees this issue as parallel to noxious weed laws where certain weeds are outlawed. He concluded it was his intent in requesting SB 156 to try to avoid situations like these from

ROLL CALL

SENATE COMMITTEE Local Government DATE 1-28-93

NAME	PRESENT	ABSENT	EXCUSED
Senator John "Ed" Kennedy	✓		
Senator Sue Bartlett	✓		
Senator Dorothy Eck	✓		
Senator Delwyn Gage	✓		
Senator Ethel Harding			✓
Senator John Hertel	✓		
Senator David Rye	✓		
Senator Bernie Swift	✓		
Senator Mignon Waterman	✓		
Senator Jeff Weldon	✓		
Senator Eleanor Vaughn	✓		

F08

Attach to each day's minutes

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 2
DATE 1-28-93
BILL NO. SB 157

PLACER CENTER: UNDER THE PRESENT COUNTY CONTRACT

LOSS:		
City of Helena:		
Taxes	$34,026.65	
Assessments	$55,596.17	
Total Loss	$89,622.82	
WIN:		
County Schools:		
Taxes	$37,189.05	
Interest on Contract	$7,525.88	
Total Received	$44,714.93	
School District #1:		
Taxes	$70,653.11	
Interest on Contract	$11,109.63	
Total Received	$81,762.74	
State of Montana:		
Taxes	$6,698.91	
Interest on Contract	$5,017.25	
Total Received	$11,716.16	
County:		
Taxes	$28,356.55	
Interest on Contract	$12,184.76	
Reimb. Costs (Est.)	$150.00	
Profit	$56,952.38	
Total Received	$97,643.69	
Total Contract Proceeds:		$235,837.52

PLACER CENTER: UNDER SENATE BILL #157:

LOSS:

County Schools:	$44,714.93
School District #1:	$81,762.74
State of Montana:	$11,716.16
County:	$40,541.31
Total Loss	$178,735.14

WIN:

City of Helena:

Taxes	$34,026.65
Assessments	$55,596.17
Interest on Contract	$35,837.52
Reimb. Costs (Est.)	$150.00
Profit	$110,227.18
Total for City	$235,837.52

Total Contract Proceeds: $235,837.52

MISSOULA COUNTY

OFFICE OF COUNTY TREASURER
MISSOULA COUNTY COURTHOUSE
BOX 7249
MISSOULA, MONTANA 59807

(406) 721-5700

January 28, 1993

Local Government Committee
Senate
State Capitol
Helena, MT 59620

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 3
DATE 1-28-93
BILL NO. SB 157

Re: SB 157

Dear Senators:

After reading the Fiscal Note for SB 157, I believe there may be some misunderstanding about the effects of the bill.

SB 157 would allow municipalities to acquire the county's tax lien on property located within the municipality without paying any delinquent taxes or costs. If the municipality then re-assigns the tax lien interest, delinquent taxes and costs must be paid to the county and appropriately distributed. If an interested party redeems from the assignment, the delinquent taxes and costs are also recovered for the eligible taxing authorities.

If, however, the municipality pursues a tax deed on the property, none of the tax delinquencies or costs may be recovered for the various taxing authorities who should receive such a distribution. Section 7-8-4201 M.C.A. allows municipalities to dispose of any property by a 2/3 vote of the members of the council. The statutes are silent on disposition of the proceeds in such a case. If the property is held in trust for a specific purpose, a majority vote of the electors of the municipality is necessary for disposal. The proceeds would then have to paid to the designated special purpose. Section 15-17-317 M.C.A. does require that tax deed property acquired by a municipality must be "held in trust by the municipality for the improvement fund into which the delinquent special assessments are payable."

If municipalities are allowed to acquire the county's tax lien without paying delinquencies or costs, then municipalities should also meet the requirements of Section 7-8-2306 M.C.A., as do counties, and distribute the proceeds of the sale as they would have been had they been paid before becoming delinquent. The requirement that tax deed property be held in trust for special improvement funds should be eliminated. If these amendments to SB 157 are not made, then schools, counties, fire districts, and other taxing jurisdictions will be disadvantaged.

Sincerely,

Wendy Cromwell

Wendy Cromwell
Clerk & Recorder/Treasurer

WRC

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Senator Kennedy, on February 11, 1993, at 1:00 p.m.

ROLL CALL

Members Present:

Sen. Ed Kennedy, Chair (D)
Sen. Sue Bartlett, Vice Chair (D)
Sen. Dorothy Eck (D)
Sen. Delwyn Gage (R)
Sen. Ethel Harding (R)
Sen. John Hertel (R)
Sen. David Rye (R)
Sen. Bernie Swift (R)
Sen. Eleanor Vaughn (D)
Sen. Mignon Waterman (D)
Sen. Jeff Weldon (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Rosalyn Cooperman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	SB 273, SB 298
Executive Action:	SB 157, SB 221, SB 244, SB 273, SB 298, HB 44, HB 169

HEARING ON SB 273

Opening Statement by Sponsor:

Senator Barry "Spook" Stang, Senate District 26, stated SB 273 would remove the prohibition against police officers working in other departments in class three cities or towns. He said current law prohibits police officers from being elected to any city office or from holding any other government job. Senator Stang said SB 273 did not delete the prohibition against holding an elected office. He stated smaller towns have trouble

Motion/Vote:

Senator Rye moved the Committee TABLE SB 156.

Discussion:

Senator Weldon asked what kind of authority local governments have to protect their citizens from dangerous dogs and if state government could do anything to strengthen their authority. Senator Kennedy stated local governments have essentially free reign to adopt ordinances to protect the general public. He said Kalispell has adopted a number of ordinances regulating dogs. Senator Weldon said he supported the motion to table SB 156 but added he hoped local governments recognized their authority to act on this matter.

Senator Eck suggested the Committee donate copies of the suggested amendments for SB 156 to local governments.

Vote:

Motion to TABLE SB 156 CARRIED UNANIMOUSLY.

Discussion on SB 157:

Jeff Martin stated he had prepared some amendments to SB 157 but requested the Committee delay executive action until Mr. Morris, Montana Association of Counties, and Mr. Hansen, Montana League of Cities and Towns, were present to discuss the specifics of the amendments.

Senator Gage stated he was concerned SB 157 would give cities the authority to waive taxes on statewide levies which affect everyone in Montana. He suggested the Committee adopt language to SB 157 to waive everything but statewide levies.

Mr. Martin explained that Mr. Morris and Mr. Hansen had developed substantial amendments to SB 157 and passed out a copy of those amendments to the Committee. (Exhibit #2) He said the amendments eliminate all sections in SB 157 and insert Section 7-8-2301 which gives counties the authority to donate land to municipalities. He said SB 157, in its original form, would change the wrong sections of law to address this problem.

Senator Gage stated he could envision an individual challenging the right of taxing jurisdictions to waive taxes on statewide levies. Senator Bartlett said under current law, the tax deed is supposed to foreclose those liens because the land is taken in place of the owed taxes. She said once the tax deed is issued, those taxes are taken off the county roles and the land is shown as an asset.

Mr. Martin stated the expiration of the redemption period is consistent with the language contained in SB 215. Senator Bartlett stated the redemption period is the six month period which starts when the tax deed is issued and ends when the land is offered for sale by the county commission. She added that during this six month period, the owner has the right to pay the delinquent taxes and reclaim the property. She said SB 215 and the amendments offered to SB 157 make it clear that the commission may opt to donate the property.

EXECUTIVE ACTION ON SB 221

Motion/Vote:

Senator Eck moved SB 221 DO PASS. Motion carried eight votes to three with Senators Gage, Rye and Swift voting NO.

EXECUTIVE ACTION ON SB 244

Motion/Vote:

Senator Gage moved the Committee adopt the amendments offered to SB 244 (Exhibit #3). MOTION CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Harding moved SB 244 DO PASS AS AMENDED. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 44

Motion/Vote:

Senator Waterman moved the Committee adopt the amendments offered to HB 44 (Exhibit #4). MOTION CARRIED UNANIMOUSLY.

Discussion:

Senator Gage asked why "federal savings and loans insurance corporations" was deleted from HB 44. Jeff Martin replied the Federal Savings and Loans maxed out on its capability to back failed savings and loans as a result of the savings and loan crisis. He said the institution is no longer in existence and added that most savings and loans now call themselves "savings banks" and are backed by the Federal Deposit Insurance Corporation. Mr. Martin added any other Federal institutions

which provide insurance for savings and loans would not be included in HB 44.

Senator Rye asked Mr. Martin if Federal Savings and Loans Insurance Corporations (FSLIC) still existed, to which Mr. Martin replied they did not.

Motion/Vote:

Senator Waterman moved HB 44 BE CONCURRED IN AS AMENDED. MOTION CARRIED UNANIMOUSLY. Senator Bartlett will carry HB 44 to the Senate.

EXECUTIVE ACTION ON SB 157

Discussion:

Senator Kennedy asked Mr. Hansen, Montana League of Cities and Towns, to explain the amendments offered to SB 157. Mr. Hansen replied the amendments return SB 157 to the original intent as envisioned by its sponsor. He said the amendments met with the approval of both his and Mr. Morris' associations and hoped the Committee would pass SB 157 as amended.

Motion/Vote:

Senator Weldon moved the Committee adopt the amendments to SB 157.

Discussion:

Senator Bartlett stated current statute specifies it is the duty of the Board of County Commissioners to make and enter an order for sale of the land. She said SB 215 would make it a duty to donate the land for housing and SB 157 would make it a duty to donate the land to a municipality. Senator Bartlett asked what other options would be made available to municipalities to deal with tax deeded land. Senator Gage stated the language in SB 157 says "may" which implies discretion. Senator Waterman stated that "may" gives municipalities the option to donate land but is not mandatory. Mr. Martin agreed with Senator Waterman and added that the "may" is enough to imply discretion.

Senator Bartlett asked if the amendments to SB 157 require the municipality to take tax deeded land donated by the county. Senator Waterman suggested the Committee add language to subsection 6 of SB 157 to make it clear the municipality has agreed to take the land. Mr. Hansen said Senator Bartlett raised a valid concern and suggested the Committee insert "at their

request" to subsection 6 of SB 157. Senator Weldon stated the language in SB 215 did not specify that the non-profit organization had to request the tax deeded property. Senator Bartlett replied when she worked with tax deeded property in Lewis and Clark County, the City of Helena monitored closely those properties most likely to be taken on assignment. She said sometimes cities choose not to take assignment on certain properties and added cities could be stuck with property if a mutual agreement provision was not added to the amendments to SB 157. Senator Kennedy stated he has seen this same problem occur with roads where the city gets jurisdiction over roads the county does not wish to maintain. Senator Gage suggested the Committee amend subsection 6 of SB 157 to state "with the consent of the municipality".

Motion/Vote:

Senator Eck moved the Committee adopt a substitute motion to amend SB 157 to insert "with the consent of the municipality" to subsection 6. Senator Weldon stated he considered Senator Eck's substitute motion as a friendly amendment and it should be included in his original motion to amend SB 157. MOTION CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Weldon moved SB 157 DO PASS AS AMENDED. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 169

Discussion:

Mr. Martin stated HB 169 was referred back to the Committee because the Legislative Council was not authorized to make the clerical amendment requested by the Committee.

Motion/Vote:

Senator Waterman moved the Committee reconsider executive action on HB 169. MOTION CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Eck moved the Committee adopt the amendments to HB 169. (Exhibit #5) MOTION CARRIED UNANIMOUSLY.

ROLL CALL

SENATE COMMITTEE Local Government DATE 2-11-93

NAME	PRESENT	ABSENT	EXCUSED
Senator John "Ed" Kennedy	✓		
Senator Sue Bartlett	✓		
Senator Dorothy Eck	✓		
Senator Delwyn Gage	✓		
Senator Ethel Harding	✓		
Senator John Hertel	✓		
Senator David Rye	✓		
Senator Bernie Swift	✓		
Senator Mignon Waterman	✓		
Senator Jeff Weldon	✓		
Senator Eleanor Vaughn	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

February 12, 1993

MR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 157 (first reading copy -- white), respectfully report that Senate Bill No. 157 be amended as follows and as so amended do pass.

Signed: John "Ed" Kennedy
Senator John "Ed" Kennedy, Jr., Chair

That such amendments read:

1. Title, lines 4 through 7.
Strike: "ELIMINATING" on line 4 through "HAVE THE" on line 7
Insert: "ALLOWING A"

2. Title, line 7.
Following: "COUNTY"
Insert: "TO"
Following: "ASSIGN"
Strike: "THE"
Following: "PROPERTY"
Insert: "WITHIN A MUNICIPALITY"

3. Title, lines 9 and 10.
Strike: "SECTIONS" line 9 through "15-17-323" on line 10
Insert: "SECTION 7-8-2301"

4. Page 1, line 13 through page 7, line 5.
Strike: everything after the enacting clause
Insert: "Section 1. Section 7-8-2301, MCA, is amended to read:

"7-8-2301. ~~Auction sale~~ Disposal of county tax-deed land. (1) Whenever the county acquires land by tax deed, it is the duty of the board of county commissioners, within 6 months after acquiring title, to:

(a) make and enter an order for sale of the lands at public auction at the front door of the courthouse; or

(b) donate the land to a municipality, as provided in subsection (6), if the land is within the incorporated boundaries of the municipality.

(2) A sale may not be made for a price less than the fair market value of the land, as determined and fixed by the board prior to making the order of sale. In determining fair market value, the board shall subtract the amount of outstanding assessments that are a lien on the land from the unencumbered value of the land, but the minimum sale price for a parcel of land may not be less than $10.

Amd. Coord.
Sec. of Senate

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 2
DATE 2-11-93
BILL NO. SB 157

Amendments to Senate Bill No. 157
First Reading Copy

For the Committee on Local Government

Prepared by Jeff Martin
February 11, 1993

1. Title, lines 9 and 10.
Strike: "SECTIONS" line 9 through "15-17-323" on line 10
Insert: "SECTION 7-8-2301"

2. Page 1, line 13 through page 7, line 5.
Strike: everything after the enacting clause
Insert: "**Section 1.** Section 7-8-2301, MCA, is amended to read:

"7-8-2301. ~~Auction sale~~ Disposal of county tax-deed land. (1) Whenever the county acquires land by tax deed, it is the duty of the board of county commissioners, within 6 months after acquiring title, to:

(a) make and enter an order for sale of the lands at public auction at the front door of the courthouse; or

(b) donate the land to a municipality, as provided in subsection (6), provided the land is within the incorporated boundaries of the municipality.

(2) A sale may not be made for a price less than the fair market value of the land, as determined and fixed by the board prior to making the order of sale. In determining fair market value, the board shall subtract the amount of outstanding assessments that are a lien on the land from the unencumbered value of the land, but the minimum sale price for a parcel of land may not be less than $10.

(3) If no bids are received at a sale of tax-deed land, the board shall order another auction sale of the land under this part within 6 months and may, if required by the circumstances, redetermine the fair market value of the land under subsection (2). In the period of time between the auction conducted under subsection (1), in which there were no qualifying bids for the property, and an auction held pursuant to this subsection, the board may sell the land by negotiated sale at a price that is not less than the fair market value that was fixed for the original auction under subsection (1).

(4) If no bid is received at the sale conducted under subsection (3), the board may dispose of the land as provided in 7-8-2218.

(5) Notwithstanding the amount of the fair market value fixed by the board prior to the auction, if the successful sale bidder is the delinquent taxpayer or ~~his~~ or the taxpayer's successor in interest, ~~his~~ the taxpayer's agent, or a member of ~~his~~ the taxpayer's immediate family, the purchase price may not be less than the amount necessary to pay, in full, all county costs of conducting the sale, delinquent taxes, assessments, and all interest and penalties.""

(6) A board of county commissioners may, upon expiration of the redemption period provided for in 15-18-111, donate the land to a municipality.

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ------- REREFERRED ---- DATE READ

SB0106	GAGE, DEL		REVISE REFUND OF TAXES BY COUNTY COMMISSIONERS					
	1/26	3/09	3/16	CONCUR	04/06	VOTE: 9-5		4/07
SB0112	HARDING, ETHEL		CONST. AMENDMENT REQUIRING ELECTORATE APPROVE CONSOLIDATING COUNTY OFFICES					
	2/23	3/11		CONCUR	03/16	VOTE: 11-5		3/17
SB0139	TOWE, TOM		LOCAL GOVERNMENT INVESTMENT IN OBLIGATIONS GUARANTEED BUT NOT ISSUED BY U.S.					
	1/26	3/11		CONCUR AS AMENDED	03/11	VOTE: 9-6		3/12
SB0149	REA, JACK		REVISE DUTIES OF COUNTY COMMISSIONERS RE: ROADS					
	2/06	3/16		CONCUR	03/16	VOTE: 16-0		3/17
SB0157	JERGESON, GREG		COUNTY CAN ASSIGN "IN-CITY" PROPERTY TO CITY AFTER RECEIVING IT VIA TAX SALE					
	2/23	3/16		CONCUR	03/25	VOTE: 16-0		3/26
SB0159	BARTLETT, SUE		REVISE TAX DEED PROCESS					
	1/30	3/04		CONCUR	3/14	VOTE: 14-0		3/05
SB0189	DOHERTY, STEVE		REQUIRE CURRENT & DELINQUENT TAXES BE PAID BEFORE PROPERTY SPLIT OR COMBINED					
	2/23	3/23		CONCUR AS AMENDED	3/25	VOTE: 16-0		3/26
SB0215	VAN VALKENBURG, FRED		ALLOW COUNTY OR MUNICIPALITY TO DONATE TAX-DEED LAND FOR HOUSING					
	2/23	3/16		CONCUR	3/25	VOTE: 14-2		3/26
SB0244	HARDING, ETHEL		INDUSTRIAL DEVELOPMENT BONDS FOR DEVELOPMENTALLY DISABLED FACILITIES					
	2/23	3/11		CONCUR	03/11	VOTE: 13-2		3/12
SB0273	STANG, BARRY		REMOVE RESTRICTION ON POLICE OFFICERS WORKING ELSEWHERE IN CITY GOVERNMENT					
	2/23	3/04		CONCUR	03/04	VOTE: 14-0		3/05
SB0288	FRITZ, HARRY		LOCAL GOVERNMENT RECORD RETENTION COMMITTEE					
	2/23	3/23		CONCUR AS AMENDED	03/25	VOTE: 16-0		3/26
SB0298	BARTLETT, SUE		AMEND MUNICIPAL FINANCE CONSOLIDATION ACT TO INCLUDE SERVICE DISTRICTS					
	2/23	3/23	03/23	CONCUR	03/25	VOTE: 16-0		3/26

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN NORM WALLIN**, on March 16, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Norm Wallin, Chairman (R)
Rep. Ray Brandewie, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Tim Dowell (D)
Rep. Dave Ewer (D)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Ed McCaffree (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Randy Vogel (R)
Rep. Karyl Winslow (R)
Rep. Diane Wyatt (D)

Members Excused: Rep. Dave Brown (D), Rep. Sheila Rice (D)

Members Absent: None

Staff Present: Bart Campbell, Legislative Council
Pat Bennett, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 157, SB 364, SB 149, SB 215, SB 358
Executive Action: SB 49, SB 106, SB 112, SB 149, SB 358

HEARING ON SENATE BILL 157

Opening Statement by Sponsor:

SEN. GREG JERGESON, SD 8, Chinook, introduced SB 157 explaining the changes made by the Senate Local Government Committee which made the statute permissive. A county may donate tax deed property to the city with the city's consent. Current statutes prohibit the transfer of property between the city and the

county. SB 157 will give cities and counties the option and flexibility to make this exchange which will also get the property back on the tax roles.

Proponents' Testimony:

Alec Hansen, Executive Director, Montana League of Cities and Towns, stated the League supports SB 157. He noted that the bill was brought to them by Mayor John Liason, Chinook. There are several abandoned homes in Chinook which pose a health & safety hazard. They have tried to get these homes abandoned or removed, however, under existing law were not able to do so because of a lack of funds to pay the delinquent property taxes. SB 157 would allow a county to donate these parcels of land to the city and then the city can deal with these buildings however they deem necessary. If the property is sold, the money will go back to the county against the delinquent taxes.

Paul Stahl, Deputy County Attorney, Lewis and Clark County, distributed a proposed amendment for SB 157. **EXHIBIT 1** The statute, as currently written, gives cities an advantage over other taxing jurisdictions including school districts, special improvement districts, irrigation districts, etc. The proposed amendments suggest that it does not delete the power from the municipalities, but in fact would broaden the power and gives it to jurisdictions eligible for proceeds under Section 7-8-2306. He stated that Section 6 is not possible under the law and should be stricken. If the county does not already have the property it cannot donate it. The county would have to wait until after the tax deed issue to donate property. **Mr. Stahl** requested that the Committee reinsert the language stricken in Section 15-17-317. He also distributed an attorney general's opinion and referred the Committee to page 2 noting that under good government all entities have the right to protect themselves. **EXHIBIT 2** If the Committee adopts the proposed amendments the bill would read as stipulated in **EXHIBIT 3.**

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. VOGEL asked **Mr. Stahl** if the original intent of the bill would allow the proposed amendments with regard to changing the multi-jurisdictional ability. **Mr. Stahl** said that in the name of good government the amendments need to be made.

REP. McCAFFREE asked **SEN. JERGESON** for a response to **Mr. Stahl's** proposed amendments. **SEN. JERGESON** said, since it was the first he had seen of the amendments, he would review them and report back to the Committee at its March 23rd meeting.

Closing by Sponsor:

SEN. JERGESON thanked the committee and closed on SB 157.

EXHIBIT 1
DATE 3/16/93
SB SB 157

AMENDMENTS

1. **Page 1, line 7, after the word "TO"**

   Delete: ASSIGN PROPERTY WITHIN A MUNICIPALITY TO THE MUNICIPALITY AFTER THE COUNTY HAS RECEIVED THE PROPERTY PURSUANT TO A TAX SALE;

   Insert: *DONATE PROPERTY TO JURISDICTIONS ELIGIBLE FOR DISTRIBUTION OF PROCEEDS UNDER SECTION 7-8-2306, MCA, AFTER THE COUNTY HAS RECEIVED THE PROPERTY PURSUANT TO A TAX DEED;*

2. **Page 1, line 11, after the word "AMENDING,"**

   Delete: SECTION 7-8-2301

   Insert: *SECTIONS 7-8-2301, 15-17-316, 15-17-317, 15-17-318, 15-17-319, 15-17-320*

3. **Page 1, line 24, after the word "to"**

   Delete: a municipality, as provided in subsection (6), if the land is within the incorporated boundaries of the municipality.

   Insert: *jurisdictions eligible for distribution of proceeds under section 7-8-2306, MCA, whether such proceeds are special assessments, assessments, fees, or taxes.*

4. **Page 3, line 6,**

   Delete: Subsection (6) in its entirety.

5. **Section 15-17-316, MCA, is amended to read:**

"15-17-316. Definitions. Unless the context indicates otherwise, as used in 15-17-316 through 15-17-320, the following definitions apply:

(1) "Improvement fund" means, with respect to any special assessments, *assessments, fees, or taxes,* the fund of the ~~municipality~~ *taxing jurisdiction* into which collections of the special assessments, *assessments, fees, or taxes* have been pledged

or appropriated.

~~(2) "Municipality" means, with respect to special assessments levied under Title 7, chapter 12, parts 41 through 46, the city or town that levied such assessments.~~

(2) "Taxing jurisdiction" means, any entity eligible for distribution of proceeds under section 7-8-2306, MCA, whether such proceeds are special assessments, assessments, fees, or taxes."

6. Section 15-17-317, MCA, is amended to read:

"Section 15-17-317. ~~Municipality~~ *Taxing jurisdiction* as purchaser. Whenever property has been struck off to the county at a tax sale under 15-17-214, is subject to the lien of delinquent special assessments*, assessments, fees, or taxes*, and has not been assigned under 15-17-214 or 15-17-323, at the request of the ~~municipality~~ *taxing jurisdiction* the county treasurer ~~shall~~ *may* assign all of the rights of the county acquired therein at the sale to the ~~municipality~~ *taxing jurisdiction* upon payment of any delinquent taxes (excluding assessments*, fees, or taxes owing to the taxing jurisdiction*) and costs, without penalty or interest. The duplicate certificate of sale must be delivered to the treasurer of the ~~municipality~~ *taxing jurisdiction* and filed ~~by him~~ in ~~his~~ *the treasurer's* ~~office~~ *records*. No charge may be made for the duplicate certificate when the ~~municipality~~ *taxing jurisdiction* is the purchaser, and in such case the county treasurer shall make an entry "sold to the ~~municipality~~ *taxing jurisdiction*" on the assessment book opposite the tax, and ~~he~~ *the taxing jurisdiction* must be credited with the delinquent amount thereof in the settlement. Property sold to the ~~municipality~~ *taxing jurisdiction*

must be held in trust by the ~~municipality~~ *taxing jurisdiction* for the improvement fund into which the delinquent special assessments, *assessments, fees, or taxes* are payable."

7. Section 15-17-318, is amended to read:

"15-17-318. Assignment of ~~municipality's~~ *taxing jurisdiction's* interest. (1) At any time after a parcel of land has been acquired by a ~~municipality~~ *taxing jurisdiction*, as provided in 15-17-317, and has not been redeemed, the treasurer of the ~~municipality~~ *taxing jurisdiction* shall assign all the rights of the ~~municipality~~ *taxing jurisdiction* in the property to any person who pays:

(a) the purchase price paid by the ~~municipality~~ *taxing jurisdiction*;

(b) the delinquent *special* assessments*, assessments, fees, or taxes*;

(c) interest on the purchase price and delinquent *special* assessments*, assessments, fees, or taxes* at the rate of 5/6 of 1% a month; and

(d) penalties and costs as provided by law.

(2) The treasurer of the ~~municipality~~ *taxing jurisdiction* shall execute to such person a certificate of sale for the parcel, which may be in substantially the form provided in 15-17-212 for the assignment of the interests of the county. If the certificate of sale becomes lost or accidentally destroyed by the assignee, the treasurer of the ~~municipality~~ *taxing jurisdiction* shall issue a duplicate certificate to the assignee after the assignee delivers to the treasurer evidence satisfactory to ~~him~~ *the treasurer*,

including an affidavit of the assignee, that the certificate has been lost or destroyed.

(3) An assignment by a ~~municipality~~ *taxing jurisdiction* under this section discharges the trust created under 15-17-317. The ~~municipality~~ *taxing jurisdiction* may also discharge the trust created under 15-17-317 by paying into the improvement fund the amount of the delinquent *special* assessments*, assessments, fees, or taxes,* and interest accrued thereon."

8. Section 15-17-319, is amended to read:

"Section 15-17-319. Sale or lease and disposition of proceeds from lands acquired by ~~municipality~~ *taxing jurisdiction*. A ~~municipality~~ *taxing jurisdiction* may sell or lease property it acquires under 15-17-317 in the same manner as a county may sell or lease tax-deed property under Title 7, chapter 8, part 23. All money received by the ~~municipality~~ *taxing jurisdiction* from the sale or lease of such land, after payment of the cost of sale, not to exceed $25, must be paid into the improvement fund to the extent of the delinquent *special* assessments, *assessments, fees, or taxes*, interest, and penalties. The surplus, if any, must be paid into any revolving fund that secures payment of such special assessments*, assessments, fees, or taxes* or, if none, to the general fund of the ~~municipality~~ *taxing jurisdiction*."

9. Section 15-17-320, is amended to read:

"Section 15-17-320. Taxes and subsequent installments of special assessments*, assessments, fees, or taxes* on land acquired by a ~~municipality~~ *taxing jurisdiction*. For property that is

acquired by a ~~municipality~~ *taxing jurisdiction* as provided in 15-17-317, subsequent installments of the special assessments--~~or~~, *assessments, or fees*, if any, and other special assessments, *assessments, or fees* not then delinquent must be levied, and taxes for the following years must be assessed in the same manner as if the property had not been so acquired. If the special assessments, *assessments, fees,* or installments thereof or taxes are not paid when due, the property must again be sold in the manner provided by law and the levies of special assessments, *assessments, fees,* assessments of taxes, and the sale of the property for delinquent special assessments, *assessments, fees,* and taxes must continue until the time when the property has been redeemed from such sale."

EXHIBIT 1
DATE 3/16/93
SB 157

EXHIBIT 2
DATE 3/16/93
SB SB 157

DRAFT

CITIES AND TOWNS - Distribution of proceeds from tax deed sale;
COUNTIES - Distribution of proceeds from tax deed sale;
LIENS - Effect of tax deed sale on special assessments;
TAXATION AND REVENUE - Distribution of proceeds from tax deed sale;
MONTANA CODE ANNOTATED - Section 7-8-2301, 7-8-2306, 15-17-317, 15-17-318, 15-17-319, 15-18-214;
OPINIONS OF THE ATTORNEY GENERAL - 43 Op. Att'y Gen. No. 38 (1989).

HELD: Section 7-8-2306, MCA, which governs the distribution of proceeds from a tax deed sale, requires that city assessments be included and prorated as part of the allocation of monies received from that sale, regardless of when those assessments became payable.

February 23, 1993

David N. Hull
Helena City Attorney
City-County Administration Building
316 North Park
Helena MT 59623

Dear Mr. Hull:

You have requested my opinion regarding the allocation of proceeds from a sale of tax deed. Specifically, you have asked:

> When a county sells tax deed land pursuant to section 7-8-2301, MCA, and the proceeds of the sale are not sufficient to cover the taxes and assessments, are city assessments to be included and prorated as part of the allocation of the monies received from the tax deed sale?

This question arises because the City of Helena (City) and Lewis and Clark County (County) have taken contrary positions regarding the interpretation of section 7-8-2306, MCA. This statute governs the distribution of proceeds of tax deed land, and provides in relevant part:

> The proceeds of each sale or lease under this part or part 25 must be paid over to the county treasurer, who shall apportion and distribute the proceeds in the following manner:
>
> (1)(a) Upon a sale of the property, the proceeds of each sale must be credited to the county general fund for reimbursement of expenditures made from it in connection with the procurement of the tax deed and holding of the sale.
>
> (b) Upon a sale of the property, if there is any money remaining after the payment of the amount specified in subsection (1)(a) and the remainder is:
>
> (i) in excess of the aggregate amount of all taxes and assessments accrued against the property for all funds and purposes, without penalty and interest, then as much of the remaining proceeds must be credited to each fund or purpose as each fund or purpose would have received had the taxes been paid before becoming delinquent, and all excess must be credited to the general fund of the county; or
>
> (ii) less in amount than the aggregate of all taxes and assessments accrued against the property for all funds and purposes, without penalty or interest, the proceeds must be prorated between the funds and purposes in the proportion that the amount of taxes and assessments accrued against the property for each fund or purpose bears to the aggregate amount of taxes and assessments accrued against the property for all funds and purposes.

The City asserts that its assessments constitute a "fund" or "purpose" to which excess proceeds must be allocated on a pro rata basis in accordance with subsection (b)(ii) of this statute. The County, on the other hand, argues that the City is not eligible for proceeds under section 7-8-2306, MCA, because it has an alternative means of protecting its interest in tax deed property.

It is true that the City, unlike other entities, has a statutory right to protect its interest in tax deed property. Section 15-17-317, MCA, requires a county, at the request of a municipality, to assign its interest in tax deed property upon payment of all

delinquent taxes, excluding assessments, plus costs without penalty or interest. The municipality is then required to hold the property in trust for the improvement fund into which the delinquent special assessments are payable. § 15-17-317, MCA. Alternatively, the municipality may assign its interest or sell or lease the property, thereby recouping all costs associated with the transfer of tax deed property, as well as delinquent assessments and interest thereon. §§ 15-17-318; 15-17-319, MCA; see also 43 Op. Att'y. Gen. No. 38 (1989) at 120; 123-24.

If a municipality exercises its right of assignment in accordance with section 15-17-317, MCA, it forecloses the right of other entities to share in tax sale proceeds under section 7-8-2306, MCA. In this respect, municipalities enjoy a significant advantage over other entities with similar interests in tax deed property. However, the right of assignment is not the sole means by which the City can cover the cost of delinquent assessments.

There is nothing in the language of section 7-8-2306(b)(ii), MCA, or 15-17-317, MCA, which suggests that the City's failure to exercise its right of assignment constitutes a waiver of its right to receive remaining proceeds on a pro rata basis. To infer this limitation would be contrary to the rule of statutory construction whereby the law must be construed as it is found without inserting what has been omitted. Dunphy v. Anaconda Co., 151 Mont. 76, 80, 438 P.2d 660, 662 (1968).

EXHIBIT 2
DATE 3/16/93
SB 157

The language of section 7-8-2306, MCA, is clear and unambiguous: If there is any money remaining after the county is reimbursed for its costs associated with the procurement of the tax deed and that money is insufficient to pay the aggregate amount of all taxes and assessments accrued against the property for all funds and purposes, the proceeds are prorated "in the proportion that the amount of taxes and assessments accrued against the property for each fund or purpose bears to the aggregate amount of taxes and assessments accrued against the property for all funds and purposes." § 7-8-2306(b)(ii), MCA (emphasis supplied). Nothing therein suggests that city assessments are not included or are not prorated as part of the allocation of monies received from the ~~tax sale~~ sale of tax deed land. Statutes are to be construed according to the plain meaning of their terms, and the plain meaning of the term "all" precludes the county's interpretation of this statute. Norfolk Holdings Inc. v. Montana Department of Revenue, 249 Mont. 40, 43, 813 P.2d 460, 461 (1991). I conclude that city assessments must be included and prorated as part of the allocation of monies received from ~~a tax sale~~ the sale of tax deed land under section 7-8-2306(b)(ii), MCA. Since the same operative language is used in subsection (b)(i) of that statute, I also conclude that city assessments must be included and credited as provided therein if the remaining money from the sale exceeds the aggregate value of all taxes and assessments.

This conclusion is unaffected by the fact that issuance of a tax deed grants title "free and clear of all liens and encumbrances," including special assessments which become payable prior to issuance of the deed. § 15-18-214, MCA; see also 43 Op. Att'y. Gen. No. 38, supra. In that opinion, Attorney General Racicot held that if either a county or a municipality takes a tax deed to property, the only special assessments which survive issuance of the tax deed are those which first become payable after issuance of the deed. Id at 125. The County suggests that, in light of this statute and corresponding opinion, it need only pro rate those assessments which become payable after issuance of the deed. While section 15-18-214, MCA, does in fact extinguish all liens which become payable prior to issuance of the deed, it does not affect the amount to be distributed upon sale under section 7-8-2306, MCA. Section 7-8-2306(b)(i), MCA, states that "the remaining proceeds must be credited to each fund or purpose as each fund or purpose would have received had the taxes been paid before becoming delinquent[.]" (Emphasis supplied). Likewise, subsection (b)(ii) states that proceeds must be prorated "between the funds and purposes in the proportion that the amount of taxes and assessments accrued against the property for each fund or purpose bears to the aggregate amount of taxes and assessments accrued against the property for all funds and purposes." (Emphasis supplied). There is no correlation between the method of distribution outlined in section 7-8-2306, MCA, and the effect of a tax deed in section 15-18-214, MCA.

EXHIBIT 2
DATE 3/16/93
SB 157

THEREFORE, IT IS MY OPINION:

Section 7-8-2306, MCA, which governs the distribution of proceeds from a tax deed sale, requires that city assessments be included and prorated as part of the allocation of monies received from that sale, regardless of when those assessments became payable.

Sincerely,

JOSEPH P. MAZUREK
Attorney General

EXHIBIT 2
DATE 3/16/93
SB 157

EXHIBIT 3
DATE 3/16/93
SB SB 157

SENATE BILL NO. 157
INTRODUCED BY JERGESON

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ELIMINATING THE REQUIREMENT THAT A MUNICIPALITY PAY DELINQUENT TAXES AND COSTS ON PROPERTY LOCATED WITHIN THE MUNICIPALITY IN ORDER TO HAVE THE~~ ALLOWING A COUNTY ~~TO ASSIGN~~ *DONATE* ~~THE~~ PROPERTY ~~WITHIN A MUNICIPALITY~~ TO ~~THE MUNICIPALITY~~ *JURISDICTIONS ELIGIBLE FOR DISTRIBUTION OF PROCEEDS UNDER SECTION 7-8-2306, MCA,* AFTER THE COUNTY HAS RECEIVED THE PROPERTY PURSUANT TO A TAX ~~SALE~~ *DEED;* AND AMENDING ~~SECTIONS 15-17-214, 15-17-317, 15-17-318, AND 15-17-323~~ SECTION*S* 7-8-2301, *15-17-316, 15-17-317, 15-13-318, 15-17-319, 15-17-320,* MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)
Strike everything after the enacting clause and
Insert:

Section 1. Section 7-8-2301, MCA, is amended to read:

"7-8-2301. Auction sale Disposal **of county tax-deed land.** (1) Whenever the county acquires land by tax deed, it is the duty of the board of county commissioners, within 6 months after acquiring title, to:

(a) make and enter an order for sale of the lands at public auction at the front door of the courthouse; or

(b) donate the land to ~~a municipality, as provided in subsection (6), if the land is within the incorporated boundaries of the municipality~~ *jurisdictions eligible for distribution of proceeds under section 7-8-2306, MCA, whether such proceeds are special assessments, assessments, fees, or taxes*.

(2) A sale may not be made for a price less than the fair market value of the land, as determined and fixed by the board prior to making the order of sale. In determining fair market value, the board shall subtract the amount of outstanding assessments that are a lien on the land from the unencumbered value of the land, but the minimum sale price for a parcel of land may not be less than $10.

(3) If no bids are received at a sale of tax-deed land, the board shall order another auction sale of the land under this part within 6 months and may, if required by the circumstances, redetermine the fair market value of the land under subsection (2). In the period of time between the auction conducted under subsection (1), in which there were no qualifying bids for the property, and an auction held pursuant to this subsection, the board may sell the land by negotiated sale at a price that is not less than the fair market value that was fixed for the original auction under subsection (1).

(4) If no bid is received at the sale conducted under subsection (3), the board may dispose of the land as provided in 7-8-2218.

(5) Notwithstanding the amount of the fair market value fixed by the board prior to the auction, if the successful sale bidder is the delinquent taxpayer or ~~his~~ the taxpayer's successor in interest, ~~his~~ the taxpayer's agent, or a member of ~~his~~ the taxpayer's immediate family, the purchase price may not be less than the amount necessary to pay, in full, all county costs of conducting the sale, delinquent taxes, assessments, and all interest and penalties.

~~(6)--A-board-of-county-commissioners-may,-upon-expiration-of the-redemption-period-provided-for-in-15-18-111,-donate-the-land-to a-municipality-with-the-consent-of-the-municipality.~~"

EXHIBIT 3
DATE 3/16/93
SB 157

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN NORM WALLIN**, on March 23, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Norm Wallin, Chairman (R)
Rep. Ray Brandewie, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Sheila Rice (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Randy Vogel (R)
Rep. Karyl Winslow (R)
Rep. Diane Wyatt (D)

Members Excused: Rep. Dave Brown, Rep. Tim Dowell, Rep. Dave Ewer and Rep. Ed McCaffree

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Pat Bennett, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	SB 189, SB 288, SB 332, SB 298, SB 316
Executive Action:	SB 298, SB 157 - Action on both postponed.

HEARING ON SENATE BILL 189

Opening Statement by Sponsor:

SEN. STEVE DOHERTY, SD 20, Great Falls, stated SB 189 was being introduced at the request of County Assessors and Clerk and Recorders. SB 189 stipulates that all taxes be paid before deeds are filed when subdividing land. It was amended in the Senate Local Government Committee to eliminate the requirement that the Department of Revenue and the County Treasurer keep records of the separation of taxes between parcels.

Proponents' Testimony: None.

$3 million for a project or whatever is received per year off the interest will be directed at debt service. Is there a maximum amount of perhaps 50% availability of cash? **SEN. TOWE** said on page 4, line 1, the DOC and DNRC may adopt rules. These departments will address in the rules the question of how much is to be set aside. He stated that not one request came in for the debt retirement.

REP. HANSEN asked if they encountered counties or municipalities having projects who have reached the bonding capacity. **Mr. Cole** said the DOC had looked at bonded indebtedness per household as a comparison to see how much debt each community was carrying. The private bond underwriters considered debt/household ratio of $1,500 to $2,000 per family to be the outer-limits of what is deemed acceptable. When it goes beyond that they believe that it jeopardies their capacity to do additional bond issues.

REP. BOHLINGER asked if it would not be an important consideration to include language specifying that the loan be repaid to the Board of Investments before making further commitments. **SEN. TOWE** said it would be an important consideration, however it will be done regardless of whether it is in the statutes. He stated he would have no problem with including such language.

Closing by Sponsor:

SENATOR TOWE thanked the committee and closed.

EXECUTIVE ACTION ON SENATE BILL 157

Discussion: **SEN. JERGESON**, at the request of the Committee, reported that, after consulting with Greg Petesch, Legal Counsel for the Legislative Council about the amendments proposed by Lewis and Clark County dealing with the Attorney General's Opinion, he concluded the amendments to the bill were not material to the AG's opinion. The AG's opinion should not be a factor in the Committee's determination of the bill. He said it would be satisfactory if the Committee were to pass the bill as is.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN NORM WALLIN**, on March 25, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Norm Wallin, Chairman (R)
Rep. Ray Brandewie, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Dave Brown (D)
Rep. Tim Dowell (D)
Rep. Dave Ewer (D)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Ed McCaffree (D)
Rep. Sheila Rice (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Randy Vogel (R)
Rep. Karyl Winslow (R)

Members Excused: Rep. Diane Wyatt (D)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Pat Bennett, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	None
Executive Action:	SB 358, SB 298, SB 332, SB 189, SB 157, SB 215, SB 364, SB 288, SB 316

EXECUTIVE ACTION ON SB 358

Motion/Vote: **REP. VOGEL** moved to reconsider SB 358. Motion carried unanimously.

Discussion: **REP. VOGEL** offered amendments for SB 358, requiring Yellowstone County to get at least two appraisals prior to the sale of the nursing home. **EXHIBIT 1**

EXECUTIVE ACTION ON SENATE BILL 189

Discussion: **REP. BRANDEWIE** asked **Cort Harrington, Montana Treasurer's Association,** to address the problems with the bill.

Mr. Harrington noted the problem concerned the requirement that if the property taxes are assessed or levied they must be paid. There is a question that if January 1 is the assessment date the taxes are not known. He recommended changing an "or" to an "and" on page 2, line 9 and on page 7, line 1. This change would require that the taxes be both assessed and levied at the same time. **EXHIBIT 3**

REP. BOHLINGER informed the committee of a fax he received from Yellowstone County which stated SB 189 would provide an effective remedy for problems the county has encountered with property in tax default.

Motion: **REP. BOHLINGER MOVED SB 189 BE CONCURRED IN.**

Motion/Vote: **REP. BRANDEWIE** moved to amend SB 189. **EXHIBIT 3** Motion carried unanimously.

Motion/Vote: **REP. BRANDEWIE MOVED SB 189 BE CONCURRED IN AS AMENDED.** Motion carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 157

Discussion: **CHAIRMAN WALLIN** informed the Committee that he had conferred with Greg Petesch, Chief Legal Counsel, Legislative Council, who has said this legislation is legal. With SB 157, property could be transferred from the county to the city.

Motion/Vote: **REP. McCAFFREE MOVED SB 157 BE CONCURRED IN.** Motion carried unanimously.

Motion/Vote: **REP. VOGEL** moved to put SB 157 on the consent calendar. Motion carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 215

Discussion: **REP. BOHLINGER** said SB 215 would give Habitat for Humanity and other groups trying to provide housing for low income people a piece of real estate on which to place a dwelling unit. It is an opportunity to turn a piece of property which pays no taxes and is a blight on the community into a tax paying residence.

Motion: **REP. BROWN MOVED SB 215 BE NOT CONCURRED IN.**

Motion/Vote: **REP. DOWELL MADE A SUBSTITUTE MOTION THAT SB 215 BE CONCURRED IN.** Motion carried 14-2 with **REPS. MCCAFFREE** and **BROWN**

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT COMMITTEE

ROLL CALL DATE 3/25/93

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN	✓		
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓		
REP. ELLEN BERGMAN	✓		
REP. JOHN BOHLINGER	✓		
REP. DAVE BROWN	✓		
REP. TIM DOWELL	✓		
REP. DAVID EWER	✓		
REP. STELLA JEAN HANSEN arrived for SB 215	✓		✓
REP. JACK HERRON	✓		
REP. ED McCAFFREE	✓		
REP. SHEILA RICE	✓		
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. RANDY VOGEL	✓		
REP. KARYL WINSLOW	✓		
REP. DIANA WYATT			✓

HOUSE STANDING COMMITTEE REPORT

March 26, 1993

Mr. Speaker: We, the committee on Local Government report that Senate Bill 157 (third reading copy -- blue) be concurred in and be placed on consent calendar .

Signed: Norm Wallin, Chair

Committee Vote:
Yes ___, No ___.

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